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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,098

10/29/2003

David J. Lineman

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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT

PAPER NUMBER

2145

MAIL DATE

DELIVERY MODE

07/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/696,098	Applicant(s) LINEMAN, DAVID J.	
	Examiner Jeffrey R. Swearingen	Art Unit 2145	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): 35 U.S.C. 101.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

The rejection under 35 U.S.C. 101 is withdrawn because Applicant explicitly disavowed the claims as being toward software per se. Remarks, page 9, 6/13/2008. Applicant also disavowed that a computer readable medium can comprise transmission media per the amendment to the specification on 4/3/2008.

Applicant argued that Dahm failed to teach a system or method where requests may be received from both a wired and wireless protocol, and based on a determination of the protocol of the request, forming a responsive query differently. Dahm displays information based on the form presented to the client device. Dahm, column 10, lines 51-55. If a wireless device is present in Dahm, then the information is modified for the appropriate wireless protocol of the Dahm client. If the client is not wireless, it is treated as a normal wired (e.g. HTML) request - no conversion of data is needed. The detection of the client is read as the determination whether a client is wired or wireless.

Applicant argued that Dahm failed to teach selective transmission of a challenge question. Applicant did not explicitly define "challenge question". Applicant did not provide an example of a challenge question in the specification. Applicant did provide multiple choice questions, but it is not clear if Applicant intended these to be "challenge questions". Based on the lack of information in the specification, a challenge question must be treated as an authentication system based on its broadest reasonable interpretation. In this instance, the exchange of keys is an authentication, and in order to access the server, a user must either enter or provide a key for exchange. The providing of the key is in exchange with the key that is provided by the server, and this acts as a "challenge question".

Applicant argues that Dahm failed to teach a password and/or account privileges management self-service application. Password must be given its broadest reasonable interpretation. Here, a password is the authentication system in Dahm. Applicant cannot simply perform a text search of the word 'password' in the Dahm reference. The authentication system requires a challenge and a response, and the response - the exchange of the keys - is the "password".

Applicant disputes the reference of an identification number as the challenge question. Applicant only refers to line 29 of column 10 in Dahm, and fails to read the line in context. The access request is based upon the identification of the account and device, which in this case is the eight digit number in Dahm. Contrary to Applicant's assertion that this is a phone number, one of ordinary skill in the art recognizes that phone numbers are commonly seven, ten (including area code), or twelve (including country code) digit numbers, therefore precluding an eight digit number as being interpreted as a phone number. Regardless, the number is an identification number.